

FEB 21 2024

US DISTRICT COURT  
WESTERN DISTRICT OF NC

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION

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UNITED STATES OF AMERICA	)	DOCKET NO. 5:24-cr-6-KDB
	)	<u>BILL OF INDICTMENT</u>
	)	
v.	)	<b>Violations:</b>
	)	18 U.S.C. § 2251(a)
	)	18 U.S.C. § 2252A(a)(1)
KELLY LEE SETZER	)	18 U.S.C. § 2252A(a)(5)(B)
	)	

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**THE GRAND JURY CHARGES:**

**COUNT ONE**  
(Production of Child Pornography)

On or about June 24, 2021, in Catawba County, within the Western District of North Carolina and elsewhere, the defendant,

**KELLY LEE SETZER,**

attempted to, and did, employ, use, persuade, induce, and entice a minor, that is, Minor Victim, to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct using materials that had been mailed, shipped, or transported in and affecting interstate and foreign commerce by any means, including by computer.

All in violation of Title 18, United States Code, Section 2251(a) & (e).

**COUNT TWO**  
(Production of Child Pornography)

On or about July 9, 2021, in Catawba County, within the Western District of North Carolina and elsewhere, the defendant,

**KELLY LEE SETZER,**

attempted to, and did, employ, use, persuade, induce, and entice a minor, that is, Minor Victim to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct using materials that had been mailed, shipped, or transported in and affecting interstate and foreign commerce by any means, including by computer.

All in violation of Title 18, United States Code, Section 2251(a) & (e).

**COUNT THREE**  
(Production of Child Pornography)

On or about July 12, 2023, in Catawba County, within the Western District of North Carolina and elsewhere, the defendant,

**KELLY LEE SETZER,**

attempted to, and did, employ, use, persuade, induce, and entice a minor, that is, Minor Victim to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct using materials that had been mailed, shipped, or transported in and affecting interstate and foreign commerce by any means, including by computer.

All in violation of Title 18, United States Code, Section 2251(a) & (e).

**COUNT FOUR**  
(Production of Child Pornography)

On or about September 21, 2023, in Catawba County, within the Western District of North Carolina and elsewhere, the defendant,

**KELLY LEE SETZER,**

attempted to, and did, employ, use, persuade, induce, and entice a minor, that is, Minor Victim to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct using materials that had been mailed, shipped, or transported in and affecting interstate and foreign commerce by any means, including by computer.

All in violation of Title 18, United States Code, Section 2251(a) & (e).

**COUNT FIVE**  
(Transportation of Child Pornography)

On or about September 24, 2023, in Catawba County, within the Western District of North Carolina and elsewhere, the defendant,

**KELLY LEE SETZER,**

knowingly transported and shipped, and attempted to transport and ship, any child pornography, as defined in Title 18, United States Code, Section 2256(8), using any means and facility of interstate and foreign commerce, and in and affecting interstate and foreign commerce by any means, including by computer.

All in violation of Title 18, United States Code, Section 2252A(a)(1) & (b)(1).

**COUNT SIX**

(Possession and Access with Intent to View Child Pornography  
Involving Prepubescent Minors)

From on or about October 5, 2020, and continuing through on or about November 3, 2023, in Catawba County, within the Western District of North Carolina and elsewhere, the defendant,

**KELLY LEE SETZER,**

did knowingly possess, and access with intent to view, any material that contained an image of child pornography, as defined in Title 18, United States Code, Section 2256(8), that involved a prepubescent minor and a minor who had not attained 12 years of age, and that had been mailed, and shipped and transported using any means and facility of interstate and foreign commerce, and in and affecting interstate and foreign commerce by any means, including by computer, and that was produced using materials that have been mailed, and shipped and transported in and affecting interstate and foreign commerce by any means, including by computer.

All in violation of Title 18, United States Code, Section 2252A(a)(5)(B) & (b)(2).

**NOTICE OF FORFEITURE AND FINDING OF PROBABLE CAUSE**

Notice is hereby given of 18 U.S.C. § 2253. The following property is subject to forfeiture in accordance with Section 2253:

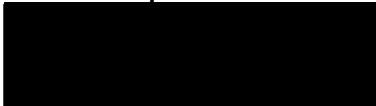
- a. Any visual depiction or book, magazine, periodical, film, videotape, or other matter which contains any such depiction, which was produced, transported, mailed, shipped, or received during the violations set forth in this bill of indictment;
- b. Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from proceeds of the violations;
- c. Any property, real or personal, used or intended to be used to commit or promote the violations; and
- d. If, as set forth in 21 U.S.C. § 853(p), any property described in (a), (b), or (c) cannot be located upon the exercise of due diligence, has been transferred or sold to, or deposited with, a third party, has been placed beyond the jurisdiction of the court, has been substantially diminished in value, or has been commingled with other property which cannot be divided without difficulty, all other property of the defendant/s to the extent of the value of the property described in (a), (b) and (c).

The Grand Jury finds probable cause to believe that the following property is subject to forfeiture on one or more of the grounds state above:

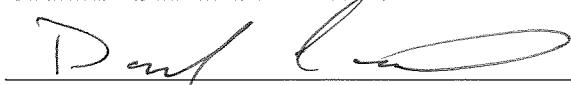
- a. One red HP Laptop, model number HP 15-DW0082WM;

- b. One Emtec Thumbddrive, serial number 079C1B09E4656026; and
- c. One silver HP Laptop Model 15-dy1031wm.

A TRUE BILL:

  
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FOREMAN

DENA J. KING  
UNITED STATES ATTORNEY

  
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DANIEL CERVANTES  
ASSISTANT UNITED STATES ATTORNEY